

BEFORE THE MISSOURI REAL ESTATE COMMISSION

MISSOURI REAL ESTATE COMMISSION)	
)	
Petitioner,)	
)	
v.)	No. 13-0485 RE
)	
)	
JAMES C. LIEBER, III)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DISCIPLINARY ORDER**

On or about October 31, 2013, the Administrative Hearing Commission entered its Default Decision in the case of *Missouri Real Estate Commission v. James C. Lieber, III*, No. 13-0485 RE. In that Default Decision, the Administrative Hearing Commission found that Respondent James C. Lieber, III's real estate broker license (license no. 2004011089) and broker associate license (license no. 2012032812) are subject to disciplinary action by the Missouri Real Estate Commission ("Commission") pursuant to § 339.100.2(15), (16) and (19), RSMo.¹

The Commission has received and reviewed the record of the proceedings before the Administrative Hearing Commission including the properly pled complaint and the Default Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 339.100.3, RSMo, the Commission held a hearing on April 2, 2014, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri, for the purpose of determining the appropriate disciplinary action against Respondent's licenses. All of the members of the Commission were present throughout

¹ All statutory references are to the Revised Statutes of Missouri 2000, as amended, unless otherwise indicated.

the meeting. Charles Davis participated through conference call. Further, each member of this Commission has read the Default Decision of the Administrative Hearing Commission. The Commission was represented by Assistant Attorney General Rachel Flaster. Respondent having received proper notice and opportunity to appear did not appear in person or through legal counsel. After being present and considering all of the evidence presented during the hearing, the Commission issues the following Findings of Facts, Conclusions of Law and Order.

Based upon the foregoing the Commission hereby states:

I.

FINDINGS OF FACT

1. The Commission is an agency of the state of Missouri created and established pursuant to § 339.120, RSMo, for the purpose of licensing all persons engaged in the practice as a real estate broker or salesperson in this state. The Commission has control and supervision of the licensed occupations and enforcement of the terms and provisions of §§ 339.010-339.205 and 339.710-339.855, RSMo.

2. The Commission hereby adopts and incorporates by reference the Default Decision, the Complaint upon which it was based and the record of the Administrative Hearing Commission in *Missouri Real Estate Commission v. James C. Lieber, III*, Case No. 13-0485 RE, issued October 31, 2013, in its entirety and takes official notice thereof.

3. The Commission set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion. Respondent failed to appear in person or through legal counsel at the hearing before the Commission

4. This Commission licensed Respondent James C. Lieber, III as a real estate broker, license number 2004011089 and broker associate license number 2012032812. Respondent's broker and broker associate licenses were current at all times relevant to this proceeding.

II.

CONCLUSIONS OF LAW

5. This Commission has jurisdiction over this proceeding pursuant to §§ 621.110 and 339.100, RSMo.

6. The Commission expressly adopts and incorporates by reference the Default Decision with the Complaint upon which the Default Decision was based, issued by the Administrative Hearing Commission dated October 31, 2013, in *Missouri Real Estate Commission v. James C. Lieber, III*, Case No. 13-0485 RE, takes official notice thereof, and hereby enters its Conclusions of Law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Default Decision dated October 31, 2013, Respondent's real estate broker license, number 2004011089 and broker associate license, number 2012032812, are subject to disciplinary action by the Commission pursuant to § 339.100.2(15), (16), and (19), RSMo.

8. The Commission has determined that this Order is necessary to ensure the protection of the public.

III.

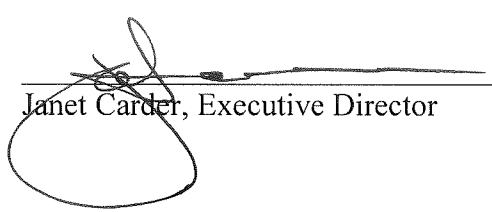
ORDER

Having fully considered all the evidence before the Commission, and giving full weight to the Default Decision of the Administrative Hearing Commission, it is the **ORDER** of the Commission that the real estate broker and broker associate licenses of James C. Lieber, III (license no. 2004011089 and 2012032812) are hereby **REVOKED**. All evidence of licensure shall be immediately returned to the Commission.

The Commission will maintain this Order as an open, public record of the Commission as provided in Chapters 339, 610 and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 9th DAY OF April, 2014.

MISSOURI REAL ESTATE COMMISSION



Janet Carder, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI REAL ESTATE
COMMISSION,

Petitioner,

vs.

JAMES C. LIEBER,

Respondent.

No. 13-0485 RE

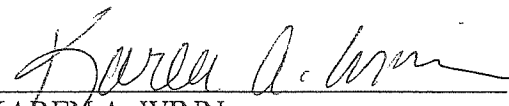
DEFAULT DECISION

On March 25, 2013, Petitioner filed a properly pled complaint seeking to discipline Respondent. Respondent was served with a copy of the complaint and our notice of complaint/notice of hearing by personal service on September 19, 2013.

More than thirty days have elapsed since Respondent was served. Respondent has not filed an answer or otherwise responded to the complaint.

In accordance with § 621.100.2, RSMo (Supp. 2012), we enter a default decision against Respondent establishing that Petitioner is entitled to the relief requested in the complaint. This default decision shall become final and may not be set aside unless a motion is filed with this Commission within thirty days of the date of this order establishing good cause for not responding to the complaint and stating facts constituting a meritorious defense.

SO ORDERED on October 31, 2013.


KAREN A. WINN
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

MAR 25 2013

ADMINISTRATIVE HEARING
COMMISSION

**MISSOURI REAL ESTATE
COMMISSION**

3605 Missouri Boulevard
P.O. Box 1339
Jefferson City, MO 65102,

Petitioner,

v

JAMES C LIEBER III

7004 N. Coventry Ave.
Kansas City, MO 64151
Telephone: (816) 935-6078

Respondent.

Case #:

13-0485 RE

COMPLAINT

Petitioner, the Missouri Real Estate Commission ("MREC"), by and through the Attorney General of the State of Missouri, and for its cause of action against Respondent, states the following:

1. The MREC is an agency of the State of Missouri, created and established pursuant to Section 339.120, RSMo,¹ for the purpose of executing and enforcing the provisions of Chapter 339, RSMo, Real Estate Agents, Brokers, Appraisers, and Escrow Agents.

¹ All statutory citations are to the 2012 Revised Statutes of Missouri unless otherwise noted.

2. Respondent, James C. Lieber III ("Lieber III"), holds licenses as a real estate broker; license no. 2004011089, and as a real estate broker associate, license no. 2012032812. License no. 2004011089 was current and active from April 26, 2004 until June 30, 2012, when it was not renewed. License No. 2012032812 has been current and active ever since it was issued on September 17, 2012.

3. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 339.100, RSMo Supp. 2012.

Count I
Bad Check/Failure to Respond

4. On or about September 12, 2012, Lieber submitted an Application to Renew Broker License for license no. 2004011089 with check no. 1281 in the amount of \$200.

5. On September 17, 2012, the MREC renewed Lieber's real estate broker license no. 2004011089.

6. On or about September 27, 2012, the MREC received notice that Lieber's check no. 1281 was returned due to insufficient funds.

7. On or about October 24, 2012, the MREC sent a letter to Lieber at 7004 N. Coventry Ave., Kansas City, MO 64151, which was the address then registered with the MREC.

8. In the October 24th letter, the MREC advised Lieber that his check had been returned due to insufficient funds and that he was now required to pay a \$25 bad check replacement fee for a total of \$225.

9. Lieber did not respond within 30 days in writing or otherwise to the MREC's October 24th letter.

10. On or about December 4, 2012, the MREC sent a second letter by certified and regular mail to Lieber at 7004 N. Coventry Ave., Kansas City, MO 64151.

11. In the December 4th letter, the MREC renewed its request for replacement funds for the returned check and advised Lieber that if payment was not forthcoming, the MREC might pursue disciplinary action against his license. The MREC also advised Lieber that failure to respond to the MREC's letters and requests was a violation of rule 20 CSR 2250-8.170, which states:

Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

12. Lieber did not respond within 30 days to any of the MREC's letters.

13. As of the filing of this Complaint, Lieber has not provided

replacement funds for check no. 1281.

14. As of the filing of this Complaint, Lieber has not paid the application fee or bad check fee owing to the MREC.

15. Lieber's attempt to pay his renewal fee with check no. 1281 when insufficient funds were available in his bank account to cover the check constitutes a false and/or fraudulent representation, and/or fraud, and/or deceit.

16. Lieber's attempt to pay his application fee with check no. 1281 when insufficient funds were available to cover the check constitutes a false and/or fraudulent representation, and/or fraud, and/or deceit.

17. Section 339.100.2, RSMo Supp. 2012, provides in relevant part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

.....

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

.....

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings demonstrates bad faith or incompetence, misconduct, or gross negligence[.]

18. Cause exists to discipline Lieber's licenses pursuant to § 339.100.2(15), RSMo Supp. 2012, because Lieber has failed to respond in writing to the MREC's written requests or inquiries, in violation of 20 CSR 2250-8.170(1).

19. Section 339.040, RSMo Supp. 2012, establishes the criteria that must be established to hold a real estate broker's license and states, in relevant part:

1. Licenses shall be granted only to persons who present . . . satisfactory proof to the commission that they:

(1) Are persons of good moral character; and

.....

(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

20. Lieber's conduct, as alleged in this Complaint, is evidence that


Lieber is not a person of good moral character and is not competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public; which would be grounds under § 339.040.1, RSMo Supp. 2012, for the MREC to deny a license to Lieber, and thus provides cause for discipline under § 339.100.2(16), RSMo Supp. 2012.

21. Lieber's conduct, as alleged in this Complaint, constitutes untrustworthy, improper, and/or fraudulent business dealings and/or demonstrates bad faith, incompetence, misconduct, and/or gross negligence, providing cause for discipline under § 339.100.2(19), RSMo Supp. 2012.

WHEREFORE, Petitioner prays this Administrative Hearing Commission to conduct a hearing in this case pursuant to Chapter 621, RSMo, and thereafter issue its findings of fact and conclusions of law that the Petitioner may discipline Respondent James C Lieber III's real estate broker license and real estate broker associate license under Chapter 339, RSMo, and the regulations promulgated thereunder.

Respectfully submitted,

CHRIS KOSTER
Attorney General



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